

EXHIBIT 2-Z

Asbestos Regulations

This article taken from the Fall 2003 edition of the Big Sky Clearwater discusses some of the asbestos regulations that relate to public and commercial building owners; it also provides some ways of dealing with asbestos containing materials (ACM). Please note, various asbestos regulations apply to each asbestos situation. Asbestos regulations that apply to public and commercial buildings differ from those that apply to schools, single-family dwellings, and other buildings. The intent of asbestos regulations is to prevent asbestos releases and exposures.

As a Public or Commercial Building Owner, What Asbestos Regulations Govern My Asbestos and Me?

In Montana, activities involving asbestos in commercial buildings are governed by one or more regulatory authorities, i.e. State of Montana DEQ, Federal EPA, and OSHA; in many cases jurisdictions and regulations overlap.

The Asbestos Control Program of the Department of Environmental Quality (DEQ) regulates and permits asbestos abatement projects, accredits asbestos-related occupations, provides compliance assistance, and administers certain sections of the Environmental Protection Agency's National Emission Standards for Hazardous Air Pollutants (NESHAP) regulation. The Asbestos Control Program regulates asbestos abatement activities involving three (3) or more square or linear feet of ACM. Asbestos abatement activities must be permitted through the Asbestos Control Program and must be conducted by accredited asbestos personnel following proper asbestos abatement, transportation, and disposal procedures.

Most of the asbestos activity in Montana involves building renovation and demolition activities. The NESHAP has a specific standard that addresses building renovations and demolitions; 40 CFR 61.145. In order to determine which requirements apply to a building owner or contractor of a renovation or demolition, an asbestos inspection is required. An asbestos inspection not only locates, quantifies, and assesses the condition of asbestos, it also provides information as to whether an asbestos containing material is regulated and regulated by which authority. According to EPA and Asbestos Control Program regulations, an accredited asbestos inspector must perform the asbestos inspection. Typically, samples of suspect asbestos containing materials are collected by the inspector for laboratory analysis. Sample analytical costs range from \$15-30/sample. Asbestos Control Program regulations require sample analysis be done by a laboratory approved by the National Institute of Standards and Technology (NIST). In some cases it can be assumed a material contains asbestos, saving an owner some money. The Asbestos Control Program maintains a list of accredited and approved asbestos inspectors and laboratories available for your reference. Contact them for specific cost and inspection information.

In a demolition or renovation where regulated ACM is identified by the asbestos inspection, the regulated ACM would need to be removed by an accredited asbestos abatement contractor following proper abatement procedures under an asbestos abatement project permit issued by the Asbestos Control Program. The building owner or abatement contractor would apply for the permit using a form available from the Asbestos Control Program called the "Montana Asbestos Abatement Project Permit Application And NESHAP Demolition/Renovation Notification." A permit fee based on the asbestos abatement contract volume would apply. A seven (7) or ten (10) day notification period, depending on the asbestos abatement contract volume, would also apply.

In a demolition where no regulated ACM is identified by the asbestos inspection, the owner or demolition contractor must notify the Asbestos Control Program of the demolition using the same form as above, "Montana Asbestos Abatement Project Permit Application And NESHAP Demolition/Renovation Notification." No fee applies to demolition notifications where no regulated ACM is identified; however, a ten (10) day notification period is required.

In a renovation where no ACM is identified by the asbestos inspection, no notification to the Asbestos Control Program is required!

Even though the Asbestos Control Program is delegated by EPA to administer the NESHAP, EPA is also active in Montana regulating asbestos on Indian Reservations, in private and public kindergarten through twelfth grade schools, and other buildings. Montana is part of EPA's Region VIII including North and South Dakota, Wyoming, Utah, and Colorado.

Another asbestos authority is Federal OSHA (Occupational Safety and Health Administration). OSHA regulates worker safety and health as they relate to asbestos in the general and construction industries. Prior to initiating construction activities, OSHA's asbestos standard also requires an asbestos inspection as part of its hazard communication requirement. The Asbestos Control Program's regulations have adopted by reference some of OSHA's asbestos regulations; however, for more complete information on OSHA's regulatory requirements, contact OSHA's office in Billings at (800) 488-7087.

City or county governments such as local building permitting offices or local environmental health or sanitarian's office may also have asbestos requirements, contact them before initiating demolition or renovation work. City or county governments issue building permits for general renovation/demolition activities; however, don't be tricked assuming that permit will satisfy the Asbestos Control Programs asbestos abatement permit and demolition/renovation notification requirements.

A final asbestos authority is the landfill. Prior to initiating asbestos work, contact your local landfill and learn about their asbestos disposal requirements. In many cases landfills do not accept ACM and the last place you want to learn that is at a landfill's gate. According to State of Montana Refuse Disposal Rules and the Asbestos Control Program regulations, asbestos must be disposed of in a State-approved Class II landfill.

Options: A Solution Exists!

At this point you may be scratching your head over asbestos regulations; however, rest assured that regulations exist to prevent asbestos exposure; they also may assist in limiting certain liabilities. As an owner of a commercial building that may contain asbestos, you have a few options. Armed with an asbestos inspection telling you where ACM is located, one option is to leave the ACM in place. If you do not have plans to renovate or demolish your building, the option of leaving the ACM in place is economical. Providing the ACM is in good condition, not causing exposures, and not prone to damage, the ACM can be left in place, managed, and monitored periodically for damage.

A second option is to encapsulate the ACM. Encapsulation involves treating the ACM with a substance that surrounds or embeds asbestos fibers. There are commercially available encapsulants and mastics specifically manufactured for such applications.

Another option is enclosure. Enclosure involves installing an airtight, impermeable, and permanent barrier around the ACM to prevent the release of asbestos. Removal is another option involving the physical removal of the material. Removal may be the only option in building demolitions or renovations.

Encapsulation, enclosure, and removal fall into the definition of asbestos abatement. In Montana, asbestos abatement actions include encapsulation, enclosure, removal, repair, renovation, placement in new construction, demolition, transportation, and disposal of friable or potentially friable asbestos containing material. Abatement actions of three (3) or more square or linear feet of ACM must be permitted through the Asbestos Control Program. As mentioned earlier, accredited asbestos personnel following proper abatement, transportation, and disposal procedures must perform abatement actions. The Asbestos Control Program has lists of accredited asbestos personnel available for your reference.

Asbestos regulations and abatement options can be confusing; however, we at the Asbestos Control Program are available to discuss your asbestos issues, so before you deal with asbestos, contact us for compliance assistance at (406) 444-3490.



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DISCLAIMER: This list is for informational purposes only. Asbestos-related work must be performed by state-accredited asbestos personnel. Prior to hiring an asbestos contractor, consultant, or laboratory verify that the personnel or lab are accredited. You may call the Program for such information at (406) 444-3490
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